REMARKS/ARGUMENTS

The Applicants have studied the Office Action dated August 10, 2005 and have made amendments to the claims. By this amendment, claims 1-14, 17-19, 21-41, and 47-48 remain in this application. It is submitted that the application, as amended, is in condition for allowance. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

Claim Rejections - 35 USC §112

The Examiner rejected Claims 25-32 under 35 U.S.C. §112, second paragraph as containing a relative term "substantially." Although the Applicants respectfully traverse this rejection, the Applicants have amended independent claim 25 to remove the term "substantially," thereby rendering this rejection moot.

Claim Rejections - 35 USC §102

The Examiner rejected Claims 1-14, 17-19, 21-41, 47 and 48 under 35 U.S.C. §102(e) as being anticipated by *Armstrong et al*, United States Patent No. 6,209,024 (hereinafter "Armstrong"). A proper rejection under 35 U.S.C. § 102(e) requires that a single reference teach (i.e., identically describe) each and every element of the rejected claims as being anticipated by Armstrong. See MPEP §2131 "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (Emphasis Added) *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim."

With regards to independent claims 1, 25, 33, 41, 47 and 48, the Applicants have amended the independent claims to more clearly recite the aspects of the presently claimed invention. The Applicants will first address the rejection of claim 1. The Applicants have amended claim 1 to specify:

Page 14 of 21

said server for transmitting a plurality of data transmissions, <u>each</u> of the plurality of data transmissions <u>transmits the user requested data at one respective point of transmission location</u> that is different than other data transmissions within the plurality of data transmissions;

said server for defining a plurality of groups, wherein each group in the plurality of groups is assigned to receive a respective data transmission within the plurality of data transmissions, the respective data transmission corresponding to a respective different point of transmission location within the user requested data;

said server, independent of said user requests for data and while preserving the impression to individual users requesting data that each is being immediately served with requested data, for arranging a plurality of users into each of a respective group within the plurality of groups; and

said server, responsive to the arrangement of said users in said plurality of groups, for transmitting the plurality of data transmissions to each user according to each user's assigned group <u>so that each of the plurality of users assigned to a particular group receives data from the same location within the user requested data</u>

The Applicants point out that the Armstrong reference is focused on optimizing access to an array of storage devices for retrieval of data to be supplied to users over a network. (Armstrong, abstract). The maximum number of users that are able to access a particular storage is limited by assigning each user to a group and limiting the number of users in a particular group. Armstrong, column 9, lines 8-20. <u>Each user</u> in a particular group reads <u>different</u> data (extents) from the disk during a service period. Armstrong column 9, lines 14-15. After a first data item (extent) for a user in Armstrong is retrieved for a particular user, the processing accesses the next data item in a steady state manner by placing that user a subsequent group to manage the access to the storage devices for retrieval of that next data item. In the system of Armstrong, the user continues to change groups while retrieving data in a steady state.

The Applicants point out that the presently claimed invention has a completely different use of groups. Users are assigned to groups, and as specifically set forth in the independent claims, the server is for "for transmitting the plurality of data transmissions to each user according to each user's assigned group <u>so that each of the plurality of users assigned to a particular group receives data from the same location within the user requested data</u>." The Applicants point out that this is in stark contrast to the teachings of Armstrong, which states "in a single service period, a maximum of U users simultaneously output (in a time-multiplexed

manner) a different extent of data." Armstrong, column 10, lines 21-22. Further, users in the presently claimed invention are assigned to groups and receive the assigned "respective data transmission" according to the particular group to which the user is assigned. While receiving a "respective data transmission" in a steady state, the user of the presently claimed invention does not change groups.

The Applicants have also amended independent claims 25, 33, 41, 47 and 48 to more clearly set forth the distinguishing features described above.

The Applicants have further amended independent claim 1 to specify:

> and wherein the server is further for realigning a first user within the plurality of users from a first group within the plurality of groups, the first group corresponding to users receiving user requested data at a first location in the user requested data flow, to a second group, the second group corresponding to users receiving user requested data at a second location in the user requested data, so as to cause the first user to receive the same data as a second user previously assigned to the second group,
> the second location being selected by the server, independent of said user requests for data, to change the location in the user requested data from which the respective user is receiving the user requested data to any location in the user requested data other than the first location in the user requested data.

The Applicants point out that the presently claimed invention specifies that realignment is performed "so as to cause the first user to receive the same data as a second user previously assigned to the second group." As discussed above, the Applicants assert that the Armstrong reference teaches that each user receives different data, not "the same data" according to the processing and structure set forth for the presently claimed invention. The Applicants have amended independent claims 33, 41, 47, and 48 to include the distinguishing feature described above.

The Applicants have further amended independent claim 25 to more clearly specify that

> each group in the plurality of groups is assigned to receive a respective data transmission within the plurality of data transmissions, the respective data

Page 16 of 21

transmission corresponding to a respective different point of transmission within the data flow, <u>so as to cause each user in a respective group to receive the same data as all other users in the respective group</u>.

The Applicants have amended claim 47 to similarly specify that "sending said user requested data in at least one data stream from said data store to said groups <u>with users assigned to a respective group within said groups all receiving the same data</u>."

The Applicants assert that these aspects of claims 25 and 47 are similarly not taught by the Armstrong reference.

The Applicants have amended dependent claims 2, 4-5, 8-14, 17-18, 22, 27, 31-32, and 37. Dependent claims 2, 9, 10, 18, 22, 32, and 37 were amended to provide proper antecedent basis, improve grammar and readability, and/or to properly correspond to amendments to claims from which they depend. Support for the amendment of claim 4 is found in the specification at, for example, page 4, lines 8-10. Support for the amendment of claim 5 is found in the specification at, for example, page 4, lines 10-14. Support for the amendment of claim 8 is found in the specification at, for example, page 8, lines 8-14. Support for the amendment of claim 11-14 is described below. Support for the amendment of claim 17 is found in the specification at, for example, page 3, lines 17-23. Support for the amendment of claim 27 is found in the specification at, for example, page 4, lines 14-15. Support for the amendment of claim 31 is found in the specification at, for example, page 3, lines 17-23. No new matter has been added by these amendments.

With respect to claims 8 and 40, the Applicant presumes that the Examiner is taking official notice that "it is known that MPEG-2 is transported with identifiable locations in the data streams." Office Action page 5, paragraph 16. The Applicants assert that combining such official notice with the teachings of Armstrong requires a rejection as obvious under 35 U.S.C. §103, and not as anticipated under 35 U.S.C. 102(e) as claims 8 and 40 are currently rejected. Official notice is proper for "facts outside of the record which are capable of instant and

unquestionable demonstration as being well-known in the arts."[2] The Applicants traverse that it is adequately known that MPEG-2 is transported with identifiable locations suitable for combining with the teachings of Armstrong to achieve the presently claimed invention, when claims 8 and 40 are considered as a whole. Applicants respectfully request that a reference be cited.[3]

If, however, the Examiner's statements are based on facts within the personal knowledge of the Examiner, the Applicants respectfully request that the Examiner support these references by filing an affidavit as is allowed under MPEP §707, citing 37 CFR 1.104(d)(2), and as specified in MPEP §2144.03.[4]

With regards to claims 11-14, the Applicants have amended these claims to more clearly describe the presently claimed invention set forth by those claims. As an initial matter, the Applicants assert that the ports and sockets set forth in claims 11-14, particularly when considered in light of the specification, are clearly related to data communications, and in particular are clearly understood by a practitioner of ordinary skill in the art to refer to well known ports and sockets of the even better known Transport Control Protocol/ Internet Protocol (TCP/IP). The applicants have amended to more clearly specify that these ports and sockets are part of a data communications interface and that users connect to these ports and sockets as set forth in those amended claims. Support for these amendments is found in the specification at, for example, page 3, lines 17-20, page 7, lines 6-26, page 8, lines 18-22, and FIGs. 1 and 2. No new matter has been added by these amendments.

The applicants have further amended claims 11-12 to more clearly specify that "with each of said plurality of groups associated with a respective port, wherein each respective port transmits the respective data transmission corresponding to its connected group wherein each

---

[2] See, MPEP §2144.03, citations omitted.
[3] See, MPEP §2144.03, "If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position."
[4]See, MPEP §2144.03, "When a rejection is based on facts within the personal knowledge of the examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner."

Page 18 of 21

<u>user assigned to a respective group is connected to the respective port</u> for that respective group"
as is set forth for claim 11. The Applicants point out that the "data transmission" is defined in
independent claim 1, from which claim 11 depends, as   The Applicants assert that the "<u>each</u> of
the plurality of <u>data transmissions</u> <u>transmits the user requested data at one respective point of
transmission</u> location that is different than other data transmissions within the plurality of data
transmissions." Claim 12, which depends from claim 48, has been similarly amended and has a
similar definition for data transmissions.

Armstrong does discuss ports 212 of a TDM circuit 210. Armstrong, column 4, lines 34-
43, column 5, lines 51-59. The Applicants assert that the Armstrong reference does not teach or
suggest using ports, or ports <u>and</u> sockets, to organize users into groups of users that each receive
data in the manner set forth by claims 11-14. The Applicants assert that Armstrong never
discusses or suggests "<u>realigning </u>said first user to said <u>second group </u>by <u>reconnecting</u> said <u>first</u>
user to <u>another of said respective ports</u>" as is set forth by claim 11 and similarly by claim 12.

With respect to claims 13 and 14, the Applicants assert that Armstrong never mentions or
suggests <u>sockets</u> in any way. Further, the Applicants also assert that Armstrong never teaches or
suggests realigning users between groups "<u>by reconnecting</u> said respective user <u>to another
respective socket</u> associated with another respective pointer" as is set forth for amended claim
13. The Applicants therefore assert that Armstrong does not contain a sufficient teaching of the
use of sockets to support anticipation of claims 13 and 14.

With respect to claim 23, the Applicants assert that the Armstrong reference fails to teach
or suggest "means for disconnecting said respective user with said another data flow <u>after a
discrete interval</u> and <u>reconnecting</u> said user with said data flow <u>at said identifiable location</u>" as is
set forth in claim 23 in the context of claim 22 and 48, from which claim 23 depends. The
Applicants point out that the "identifiable location" was defined in claim 22, from which claim
23 depends, as a location at which the user was disconnected "with said respective data flow."
The cited portion of the Armstrong reference describes processing associated with a non steady
state user request, such as a jump request associated with, for example, a fast forward request.
Armstrong, column 10, lines 43-61. Although Armstrong may address starting a new data flow

Page 19 of 21

ir implementing a single jump within a data stream, the Applicants assert that the teachings of Armstrong do not teach or suggest the combination of "disconnecting ... with said another data flow after a discrete interval and reconnecting ... at said identifiable location." as set forth in amended claim 23. Armstrong is silent as to shifting back-and-forth between data flows, and does not discuss "reconnecting" as is set forth for claim 23.

Additionally, Applicants note that dependent claims 2-14, 17-19, and 21-24; 26-32, and 34-40, and depend from independent claims 1, 25, and 33, respectively. As discussed above, amended independent claims 1, 25 and 33 distinguish over the Armstrong reference. Since dependent claims include all of the limitations of the independent claims from which they depend, Applicants further assert that dependent claims 2-14, 17-19, and 21-24, 26-32, and 34-40 also distinguish over the Armstrong reference as well. Therefore, Applicants respectfully assert that the Examiner's rejection under 35 U.S.C. §102(e) over Armstrong should be withdrawn.

Conclusion

The foregoing is submitted as full and complete response to the Official Action mailed August 10, 2005, and it is submitted that Claims 1-14, 17-19, 21-41, and 47-48, are in condition for allowance. Reconsideration of the rejection and reexamination are requested. Allowance of Claims 1-14, 17-19, 21-41, and 47-48, is earnestly solicited.

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended. In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any

Page 20 of 21

territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.
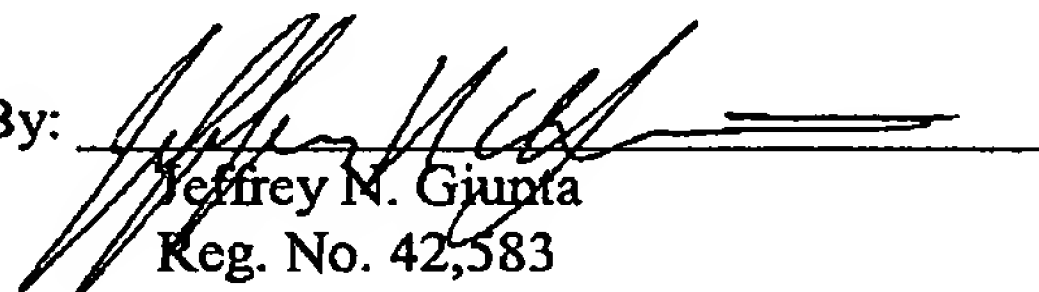
Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, or that in any way it would help expedite the prosecution of the patent application, a telephone call to the undersigned at (561) 989-9811 is respectfully solicited.

Respectfully submitted,

Date: November 10, 2005

By: _____
Jeffrey N. Giunta
Reg. No. 42,583

FLEIT, KAIN, GIBBONS, GUTMAN
BONGINI & BIANCO P.L.
551 N.W. 77th Street, Suite 111
Boca Raton, FL 33487
Tel (561) 989-9811
Fax (561) 989-9812